



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 6370-99

8 June 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you accepted a commission as an ensign in the Naval Reserve on 29 August 1997, after you completed the Reserve Officer Training Corps (ROTC) program and graduated from the University of Michigan. On 11 December 1997 you submitted a request for discharge because you had become a conscientious objector. After review the Commanding Officer, Surface Warfare Officers School Command recommended that your request for discharge be disapproved but recommended a noncombatant status. The commanding officer stated, in part, as follows:

... (His) personal convictions with regard to warfare and taking human life appear to be genuine and not spontaneously contrived, although the timing of the submission of this package does beg more questions. I do have some concern about sending him to the fleet as a Surface Warrior on a front-line ship. Although (his) request was for a discharge rather than reassignment to non-combative duties both he and the Navy would be best served by his reassignment to a 1-A-O status. He could then serve out the remainder of his commitment to the U. S. Government for the costs incurred in his education at the University of Michigan honorably with

relatively little contradiction to his personal beliefs.

The subsequent recommendation of the Chief of Naval Personnel states, in part, as follows:

... Placing (him) aboard a noncombatant ship would allow him to continue on active duty and serve out his active obligated service. However, wherever (he) serves, he likely will be placed in positions of leadership where his beliefs may undermine his credibility and the strength to which he fulfills his commitment to the Naval Service. His statements place sufficient doubt as to his behavior in situations where the safety of his ship and crew are a factor. Classifying (him) as a Class 1-O conscientious objector would separate him from the naval Service.

.. Recommendation. Approve (his) separation from the Naval Service with an honorable discharge. based on the documentation presented (he) has convincingly established the underlying basis, sincerity, and depth of his conscientious objection which prevents his effective service on a combatant or a non-combatant ship. Additionally, approve the recoupment of \$42,695.66 for educational expenses incurred while an ROTC Midshipman at the University of Michigan.

On 12 May 1998 the Assistant Secretary of the Navy approved the recommendation for your discharge and recoupment of the \$42,695.66 for your educational expenses. You were honorably discharged on 1 June 1998. At that time you were assigned a separation program designator (SPD) code of "KCM" which indicates that your discharge was voluntary.

In your application you are requesting that the record be corrected to indicate that your discharge was involuntary. It appears that you are making this request so that you will not have to repay the \$42,695.66 you were paid for your educational expenses. You contend, in part, as follows:

... The development of my religious beliefs was no more predictable or controllable than a sudden physical injury, both prevent military service and both occur independent of the individuals will. Due to the fact that I entered into my military contract with the full intention of having a long and honorable career but was prevented from doing so by developing religious beliefs outside of my control I feel that my discharge should be classified as involuntary. An officer in my position who blows out a knee skiing is not held

responsible for remaining service and neither should I be.

The Board was aware that the assistant Secretary of the Navy has the authority to waive or direct recoupment of educational expenses at his discretion. The Board is also aware that there is no involuntary SPD code authorized when conscientious objection is the reason for discharge. In effect, all discharges for that reason are considered to be voluntary.

In reaching its decision the Board noted that your educational expenses were paid with the expectation that you would serve as a naval officer for a period of years. The Board further noted that the regulations do not provide for an involuntary discharge due to conscientious objection. Since you did not complete your active duty commitment, the Board concluded that you should repay the government for the cost of your education, and there has been no abuse of discretion in this matter.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director